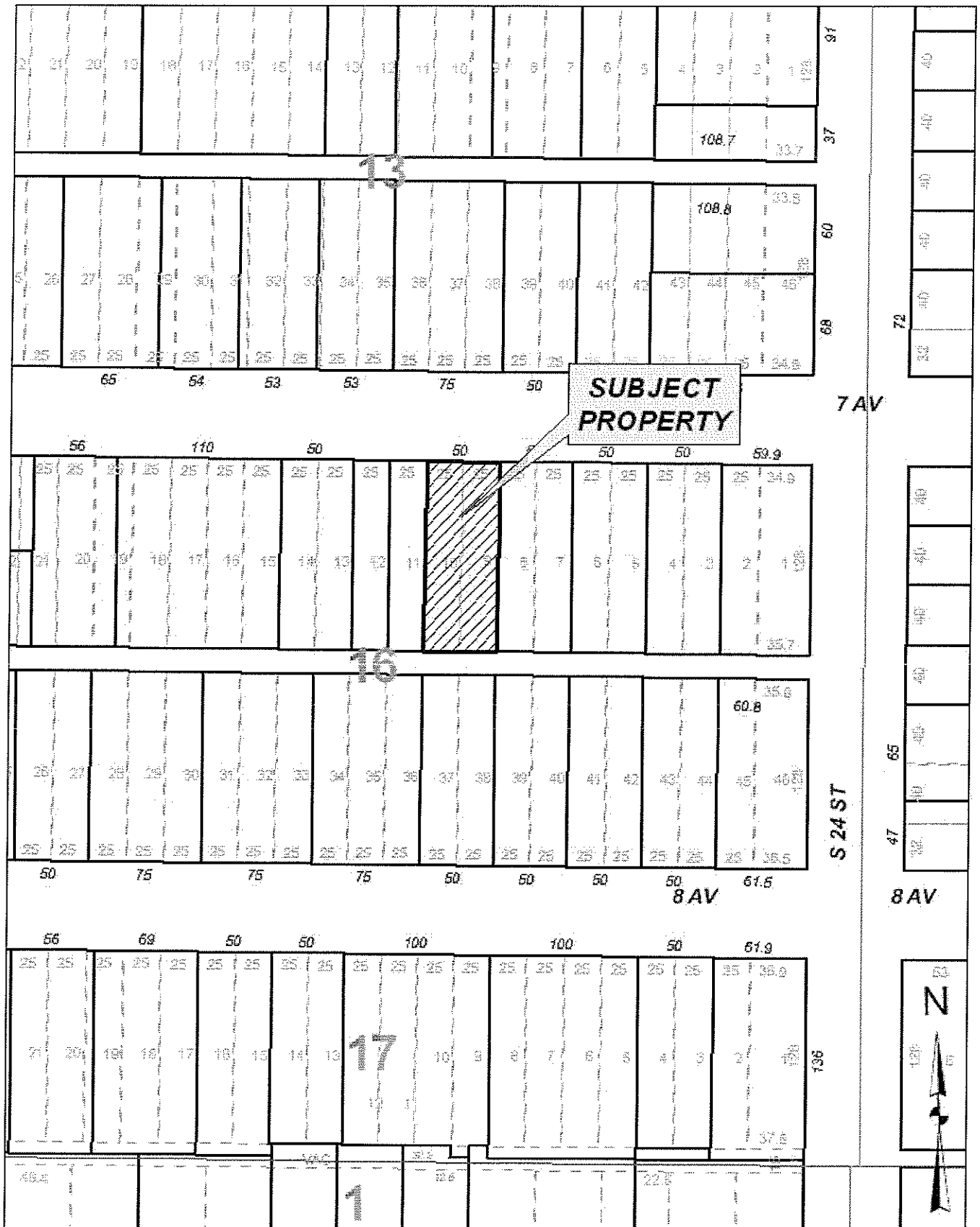


## Council Communication

<b>Department:</b> Community Development  <b>Offer To Buy City Property</b>  <b>Applicant:</b> Larry and Gloria West	<b>Resolution of Intent No.</b> <u>10-77</u>  <b>Resolution to Dispose No.</b> _____	<b>Set Public Hearing:</b> 03/08/10  <b>Public Hearing:</b> 03/29/10
<b>Subject/Title</b>		
Request of Larry A. and Gloria G. West, 1953 Longview Loop, Council Bluffs, IA 51503 to purchase 2409 7 <sup>th</sup> Avenue (Legal Description: Lots 9 and 10, Block 16, Wright's Addition).		
<b>Background/Discussion</b>		
<p>Larry A. and Gloria G. West have submitted an Offer to Buy the City owned property at 2409 7<sup>th</sup> Avenue as legally described above. The City acquired the property through a 657A process in December, 2009 and the residential structure was removed in January, 2010. The total cost incurred by the City to date is \$4,324.97.</p> <p>This property, consisting of two lots, measures 50 feet by 128 feet and is zoned R-2/Two-Family Residential. The West's would like to purchase the property, construct a new single family structure and sell it to buyers qualified under the Infill program. The value of lots in this general area range from \$15,000-\$20,000. The assessed value of the subject property is \$12,626. The applicants have offered \$16,000 which the Community Development Department feels is reasonable.</p>		
<b>Recommendation</b>		
The Community Development Department recommends disposal of Lots 9 and 10, Block 16, Wright's Addition to Larry A. and Gloria G. West for the sum of \$16,000.		
<b>Attachment:</b> Picture and location map. <b>Prepared By:</b> Rebecca Sall, Planning Technician, Community Development Department		



# OFFER TO BUY - WEST



Prepared by: Community Development Dept., Co. Bluffs, IA 51503 – Phone: 328-4629  
Return to: City Clerk, 209 Pearl Street, Co. Bluffs, IA 51503 – Phone: 328-4616

RESOLUTION NO. 10-77

A RESOLUTION OF INTENT TO DISPOSE OF CITY PROPERTY FORMERLY KNOWN AS 2409 – 7<sup>TH</sup> AVENUE, LEGALLY DESCRIBED AS LOTS 9 AND 10, BLOCK 16, WRIGHT’S ADDITION.

WHEREAS, the City has received, from Larry A. and Gloria G. West, an offer to buy City property formerly known as 2409 – 7<sup>th</sup> Avenue, legally described as Lots 9 and 10, Block 16, Wright’s Addition, and

WHEREAS, the Mayor and city staff recommends disposal of the above-referenced property under the terms and conditions set forth in the offer to buy.

NOW, THEREFORE, BE IT RESOLVED  
BY THE CITY COUNCIL  
OF THE  
CITY OF COUNCIL BLUFFS, IOWA

That the City does hereby express its intent to dispose of City property formerly known as 2409 – 7<sup>th</sup> Avenue, legally described as Lots 9 and 10, Block 16, Wright’s Addition; and

BE IT FURTHER RESOLVED

That a public hearing be scheduled for March 29, 2010.

ADOPTED  
AND  
APPROVED:

March 8, 2010

\_\_\_\_\_  
Thomas P. Hanafan Mayor

ATTEST:

\_\_\_\_\_  
Marcia L. Worden City Clerk

## Council Communication

<b>Department:</b> Community Development  <b>Offer To Buy City Property</b>  <b>Applicant:</b> Community Housing Investment Corporation	<b>Resolution of Intent No.</b> <u>10-78</u>  <b>Resolution to Dispose No.</b> _____	<b>Set Public Hearing:</b> 03/08/10  <b>Public Hearing:</b> 03/29/10
<b>Subject/Title</b>		
Request of Community Housing Investment Corporation (CHIC) to purchase Lot 13, except triangle on north, Auditor's Subdivision of part of the S1/2 NE1/4 of Section 25-75-44, formerly known as 348 Benton Street.		
<b>Background/Discussion</b>		
<p>The Community Housing Investment Corporation (CHIC) has submitted an Offer to Buy the City owned property previously known as 348 Benton Street. The City acquired the property through a 657A process in March, 2006 and the residential structure was removed prior to January, 2007. The total cost incurred by the City to date is \$13,231.</p> <p>This property is 30 feet wide (frontage) by 60 feet deep, contains 1,620 square feet and is zoned R-2/Two-Family Residential. CHIC is also proposing to purchase the vacant lot directly to the north from a private owner. These two parcels could then be combined, developed with a new single family structure and sold to buyers qualified under the Infill program. CHIC has offered \$5,000 for this property. Given the size of the lot, the Community Development Department believes this price is adequate.</p>		
<b>Recommendation</b>		
The Community Development Department recommends disposal of Lot 13, except triangle on north, Auditor's Subdivision of part of the S1/2 NE1/4 of Section 25-75-44, formerly known as 348 Benton Street, to the Community Housing Investment Corporation for the sum of \$5,000. This sale shall be contingent upon CHIC acquiring the adjacent parcel on the north.		
<b>Attachment:</b> Picture and location map. <b>Prepared By:</b> Rebecca Sall, Planning Technician, Community Development Department		



## OFFER TO BUY - CHIC



Prepared by: Community Development Dept., Co. Bluffs, IA 51503 – Phone: 328-4629  
Return to: City Clerk, 209 Pearl Street, Co. Bluffs, IA 51503 – Phone: 328-4616

RESOLUTION NO. 10-78

A RESOLUTION OF INTENT TO DISPOSE OF CITY PROPERTY FORMERLY KNOWN AS 348 BENTON STREET, LEGALLY DESCRIBED AS LOT 13, EXCEPT TRIANGLE ON NORTH, AUDITOR'S SUBDIVISION OF PART OF THE S1/2 NE1/4 OF SECTION 25-75-44.

WHEREAS, the City has received, from Community Housing Investment Corporation (CHIC), an offer to buy City property formerly known as 348 Benton Street, legally described as Lot 13, except triangle on north, Auditor's Subdivision of part of the S1/2 NE1/4 of Section 25-75-44, and

WHEREAS, the Mayor and city staff recommends disposal of the above-referenced property under the terms and conditions set forth in the offer to buy.

NOW, THEREFORE, BE IT RESOLVED  
BY THE CITY COUNCIL  
OF THE  
CITY OF COUNCIL BLUFFS, IOWA

That the City does hereby express its intent to dispose of City property formerly known as 348 Benton Street, legally described as Lot 13, except triangle on north, Auditor's Subdivision of part of the S1/2 NE1/4 of Section 25-75-44; and

BE IT FURTHER RESOLVED

That a public hearing be scheduled for March 29, 2010.

ADOPTED  
AND  
APPROVED:

March 8, 2010

\_\_\_\_\_  
Thomas P. Hanafan

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Marcia L. Worden

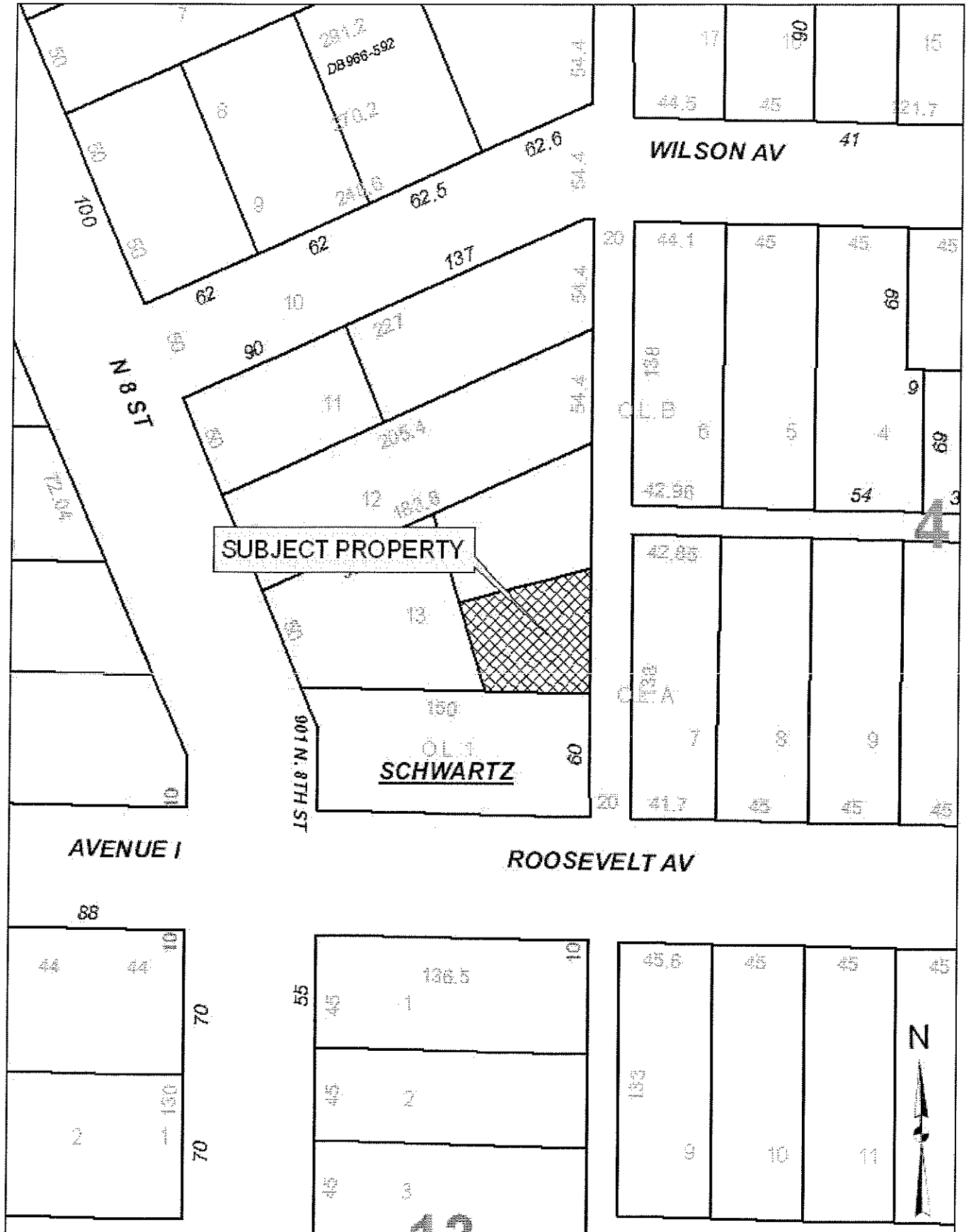
\_\_\_\_\_  
City Clerk



## Council Communication

<b>Department:</b> Community Development  <b>Offer To Buy City Property</b>  <b>Applicant:</b> Aaron Schwartz	<b>Resolution of Intent No.</b> <u>10-79</u>  <b>Resolution to Dispose No.</b> _____	<b>Set Public Hearing:</b> 02/22/10  <b>Public Hearing:</b> 03/08/10
<b>Subject/Title</b>		
Request of Aaron Schwartz, 901 North 8 <sup>th</sup> Street, Council Bluffs, IA 51501 to purchase the Southeast part of Lot 13, Ross Place, formerly known as 907 ½ North 8 <sup>th</sup> Street.		
<b>Background/Discussion</b>		
<p>Aaron Schwartz is offering to purchase a parcel of City owned property formerly known as 907 ½ North 8<sup>th</sup> Street. This property is zoned R-2/Two Family Residential, contains approximately 3,025 square feet (approximately 55' x 55') and is now vacant. Mr. Schwartz would like to combine this parcel with his property abutting on the south at 901 North 8<sup>th</sup> Street for the purpose of building a garage. The City acquired the parcel in July, 2009 via an Affidavit of Change of Title.</p> <p>The applicant has offered the price of \$514.25 which amounts to \$0.17 per square foot.. Because the lot is only 55 feet deep and abuts only an alley and not a street, a residential structure could not be built on the property. However, the construction of an accessory structure for an abutting owner would be allowed. As such, staff believes the purchase price should be set at \$.50 per square foot, or \$1,512.50.</p>		
<b>Recommendation</b>		
The Community Development Department recommends disposal of the Southeast part of Lot 13, Ross Place, formerly known as 907 ½ North 8 <sup>th</sup> Street, to Aaron Schwartz for the sum of \$1,512.50.		
<b>Attachment:</b> Location map. <b>Prepared By:</b> Rebecca Sall, Planning Technician, Community Development Department		

# OFFER TO BUY - SCHWARTZ



Prepared by: Community Development Dept., Co. Bluffs, IA 51503 – Phone: 328-4629  
Return to: City Clerk, 209 Pearl Street, Co. Bluffs, IA 51503 – Phone: 328-4616

RESOLUTION NO. 10-79

A RESOLUTION AUTHORIZING DISPOSAL OF CITY OWNED PROPERTY FORMERLY KNOWN AS 907 ½ NORTH 8<sup>TH</sup> STREET, DESCRIBED AS THE SOUTHEAST PART OF LOT 13, ROSS PLACE.

WHEREAS, This City Council previously expressed its intent to dispose of City property formerly known as 907 ½ North 8<sup>th</sup> Street, described as the Southeast part of Lot 13, Ross Place; and

WHEREAS, A public hearing has been held in this matter.

NOW, THEREFORE, BE IT RESOLVED  
BY THE CITY COUNCIL  
OF THE  
CITY OF COUNCIL BLUFFS, IOWA

That the Mayor and the City Clerk be and are hereby authorized, empowered and directed to execute a quit claim deed conveying the City's interest in the above-described property as follows:

Aaron Schwartz and all successors in interest: The Southeast part of Lot 13, Ross Place, more fully described as: Commencing at a point on the South line of said Lot 13, 96 feet from the SW corner of said Lot 13, thence Northerly 50 feet on a line which extends from the place of beginning to a point on the Northerly line of said Lot 13 which is 96 feet from the NW corner of said Lot 13, thence Easterly to a point on the East line of said Lot 13 which is 57 feet 3 inches North of the SE corner of said Lot 13, thence South along the East line of said Lot 13, 57 feet 3 inches to the SE corner of said Lot 13, thence West along the South line of said Lot 13 to place of beginning, for the sum of \$1,512.50.

ADOPTED  
AND  
APPROVED:

March 8, 2010

\_\_\_\_\_  
Thomas P. Hanafan Mayor

ATTEST:

\_\_\_\_\_  
Marcia L. Worden City Clerk

## COUNCIL COMMUNICATION

Department: Public Works

Ordinance No. \_\_\_\_\_

First Reading March 8, 2010

Case/Project No.: FY11-22-2

Resolution No. 10-80

Applicant: Matthew Cox, City Engineer

### SUBJECT/TITLE

After the Public Hearing council consideration of a resolution approving the plans and specifications and authorizing the City Clerk to advertise for bids setting April 13, 2010 at 10:00 a.m. as the date and time for the bid opening for Public Works Operation Facility. Project #FY11-22-2.

### BACKGROUND/DISCUSSION

- The city has been successful in obtaining an IJOBS grant in the amount of \$3,869,000.
- Recently the State of Iowa initiated the IJOBS program. It is a multipart program funded by \$830 million over three years. The program intent is to assist the state in recovery from natural disasters in 2008 and to create or preserve jobs.
- IJOBS has several different components:
  - \$300 million for legislative directed public infrastructure
  - \$115 million for Transportation (Council Bluffs will receive \$600,000)
  - \$ 80 million for Environment and Water Quality
  - \$ 35 million for Housing
  - \$ 35 million for Technology and Alternative Energy
  - \$265 million for Disaster Recovery
- Disaster Recovery Funds are allocated as:
  - \$100 million for University of Iowa
  - \$46.5 million for Linn County, Cedar Rapids and fire stations in Palo, Elkader and Charles City
  - \$118.5 in Local Infrastructure Program for competitive grants to be awarded to cities, counties, and non profits across the state.
- The Local Infrastructure Program awards funding on a competitive basis through grant applications. Basis for award include five equally weighted criteria.
  - Job creation
  - Financial feasibility
  - Sustainability and energy efficiency
  - Benefits for disaster recovery
  - Readiness to proceed
- Projects eligible are related to:
  - Disaster rebuilding
  - Reconstruction and replacement of local public buildings
  - Flood control and flood protection
  - Future flood prevention

## BACKGROUND/DISCUSSION

- The program funds up to 75% of a project for replacing or rebuilding existing disaster related damaged property or 50% of total cost for all other projects.
- A Notice of Intent to submit an application for the construction of a new Public Works Operations Facility was submitted July 14. The full application for a grant was submitted August 3. The city has been notified the grant was approved.
- Currently the city has three separate sites housing Public Works streets, sewers, and traffic operations. One site is immediately adjacent to Indian Creek and is highly vulnerable to flooding. All facilities are in poor condition, undersized, and inadequate to meet the needs of the operation.
- In the event of a disaster, Public Works operations is required to play a critical role in response and recovery efforts. A facility which provides for efficient and effective operations will greatly enhance disaster response.
- The proposed project provides for construction of a 37,400 SF joint operations center housing Council Bluffs Public Works Street, Sewer, and Traffic Maintenance personnel and equipment. The facility would be located on a parcel of ground the city has previously purchased to accommodate the eventual relocation of all public works divisions to a central location. The proposed building will house 65 employees and 60 major pieces of equipment. In the spring of 2009 a new \$5 million Fleet Maintenance Facility was located on this site.
- To date, a site preparation (grading) contract has been awarded and that work will be completed by April.
- This proposed contract includes construction of site improvements, the new building, a new fueling station for city vehicles, and pavement for 10<sup>th</sup> Avenue.
- The original project total was estimated at \$7,738,000. The project was funded:
  - \$3,869,000 IJOBS grant
  - \$3,869,000 Local Funds
- As the project has evolved, the costs have gone up. Total project cost is now \$9.285 million. To assure an affordable project several items totaling \$685,000.00 have been identified to be bid as alternates. Also an additional \$915,000.00 in sewer funds, road use tax funds, and sales tax funds have been added to the project. With the deducts the cost are estimated at \$8.6 million and with the additional funding, total funding available is \$8,653,000.00

- With the favorable bidding climate, it is possible some the deduct items can be added back into the project.
- The project schedule is:

Set Public Hearing	February 22, 2010
Hold Public Hearing	March 8, 2010
Letting	April 13, 2010
Award	April 25, 2010
Construction Completion	Summer 2011

#### **RECOMMENDATION**

Approval of this resolution.

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Greg Reeder, Public Works Director

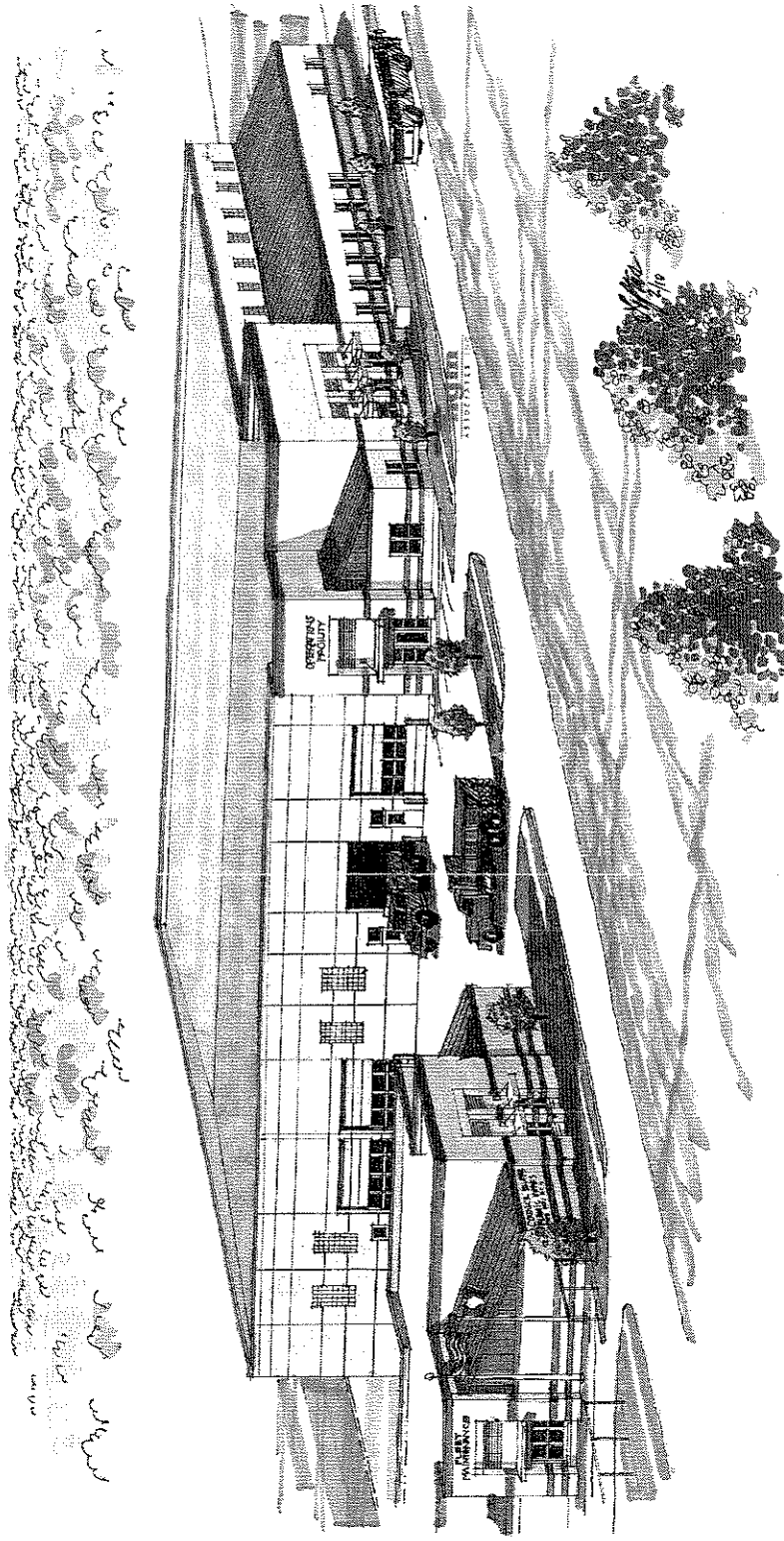
2/10/2010

## PUBLIC WORKS OPERATIONS FACILITY BUDGET

2/10/2010

PUBLIC WORKS OPERATIONS FACILITY

COSTS				FUNDING				
	part	scope	sub cost	total cost		original	additional	total
contract 1	1	Site Prep		\$375,000	JOBS	\$3,869,000		\$3,869,000
					GO BONDS	\$700,000		\$700,000
contract 2	1	Civil site work		\$650,000	GENERAL FUND	\$275,000		\$275,000
		bldg & utilities			SEWER FUNDS	\$1,500,000	\$300,000	\$1,800,000
		fuel island paving			RUTF	\$1,394,000	\$300,000	\$1,694,000
		grading & paving			SALES TAX		\$315,000	\$315,000
		se corner paving			total	\$7,738,000	\$915,000	\$8,653,000
		fencing & gates						
	2	site lighting		\$25,000				
	3	Building		\$6,420,000				
		vehicle bays	\$1,450,000					
		office/shop/mezzanine	\$2,800,000					
		plumbing	\$280,000					
		geothermal system/HVAC	\$845,000					
		electrical	\$850,000					
		communication, security, A/V	\$230,000					
		fire sprinkler/alarm	\$165,000					
	4	10th Ave paving-		\$295,000				
		east extension	\$100,000					
		mid extension	\$115,000					
		west extension	\$80,000					
		wash bay bldg		\$200,000				
		remove old storage bldg		\$20,000				
		fuel island		\$150,000				
		fuel island canopy		\$25,000				
	5	fiber optic-traffic system		\$85,000				
		5 ton crane		\$75,000				
		BASE TOTAL		\$7,945,000				
	11	construction contingency		\$125,000				
		TOTAL CONTRACT 2 COST		\$8,070,000				
deduct	alternate	delete wash bay bldg		\$200,000				
deduct	alternate	delete remove old storage bldg		\$20,000				
deduct	alternate	delete fuel island		\$150,000				
deduct	alternate	delete fuel island canopy		\$25,000				
deduct	alternate	delete fuel island paving		\$80,000				
deduct	alternate	delete paving se corner		\$135,000				
deduct	alternate	delete 5 ton crane in vac/jet bay		\$75,000				
		total deletes		\$685,000				
		CONTRACT 2 LESS DELETES		\$7,385,000				
		Architect/Engineering		\$673,000				
		building	\$653,000					
		10th st	\$20,000					
		OWNER SUPPLIED		\$137,000				
		generator	\$75,000					
		furniture & shelving	\$50,000					
		phase II EA	\$8,000					
		irrigation	\$4,000					
base		relocate MAE power line		\$30,000				
		TOTAL COST		\$9,285,000				
		TOTAL COST w/ deducts		\$8,600,000				



**COUNCIL BLUFFS PUBLIC WORKS  
OPERATIONS FACILITY**  
SOUTH 8TH STREET & 10TH AVENUE  
COUNCIL BLUFFS, IOWA

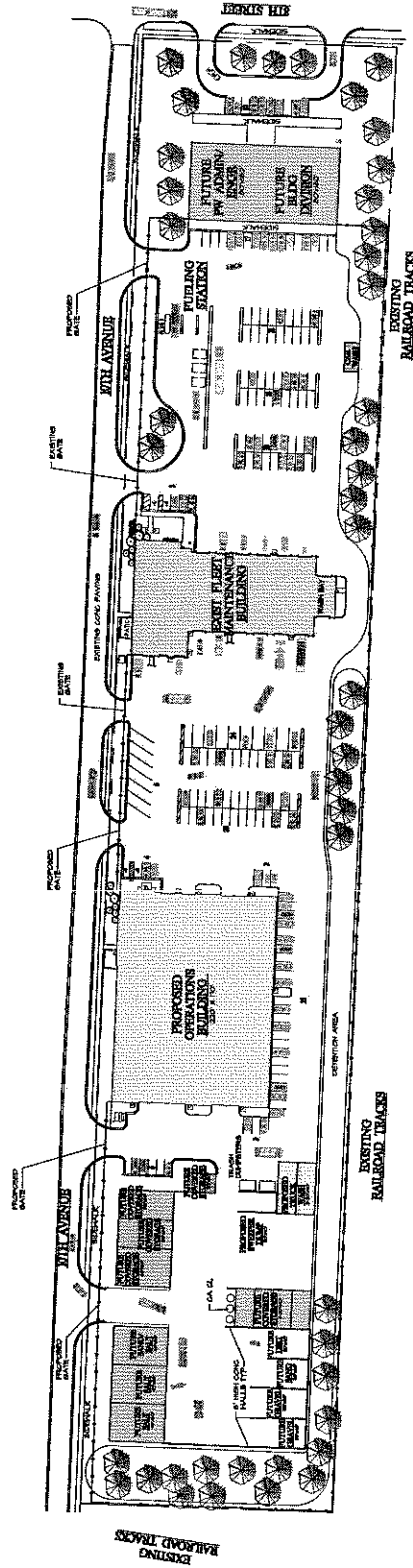


CULVER/JUDGE  
**JOBS**

Feb 10, 2010  
1509  
R11

**hgm**  
ASSOCIATES INC.





1 MASTER PLAN  
SCALE 1" = 50'-0"

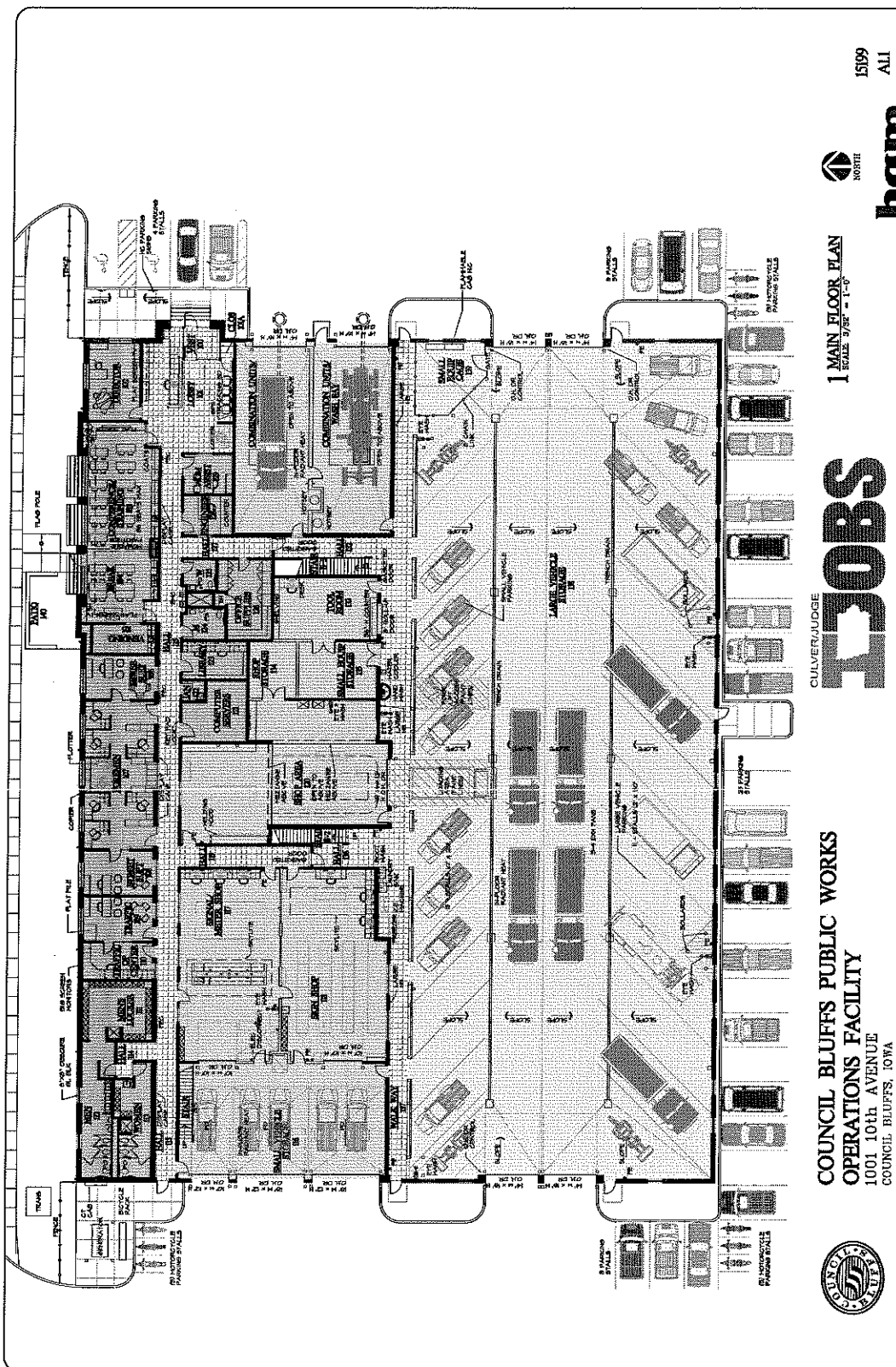


COUNCIL BLUFFS PUBLIC WORKS  
OPERATIONS FACILITY  
1001 10th AVENUE  
COUNCIL BLUFFS, IOWA



CULVER/JUDGE  
**JOBS**

1509  
CL1  
**hgm**  
ASSOCIATES INC.



COUNCIL BLUFFS PUBLIC WORKS  
OPERATIONS FACILITY  
1001 10th AVENUE  
COUNCIL BLUFFS, IOWA

CULVER/JUDGE  
**JOBS**

1 MAIN FLOOR PLAN  
SCALE 3/8" = 1'-0"



**hgm**

ASSOCIATES INC.

1599  
ALI

**RESOLUTION**  
**NO 10-80**

**RESOLUTION APPROVING THE PLANS, SPECIFICATION,  
FORM OF CONTRACT AND COST ESTIMATE FOR THE  
PUBLIC WORKS OPERATION FACILITY  
FY11-22-2**

WHEREAS,           the plans, specification, form of contract and cost estimate  
                          are on file in the office of the City Clerk of the City of  
                          Council Bluffs, Iowa for the Public Works Operation Facility;  
                          and

WHEREAS,           A Notice of Public Hearing was published as required  
                          by law, and a public hearing was held on March 8, 2010

NOW, THEREFORE, BE IT RESOLVED  
BY THE CITY COUNCIL  
OF THE  
CITY OF COUNCIL BLUFFS, IOWA

That the plans, specifications, form of contract and cost estimate are hereby approved for the  
Public Works Operation Facility and the City Clerk is hereby authorized to advertise for bids for  
said project.

ADOPTED  
AND  
APPROVED

March 8, 2010

\_\_\_\_\_  
Thomas P. Hanafan, Mayor

ATTEST:

\_\_\_\_\_  
Marcia L. Worden, City Clerk

## Council Communication

Department: Community Development Case #ZC-10-001 Applicant: Community Development Department	Ordinance No. <u>6052</u>	City Council: <u>02/22/2010</u> Planning Commission: <u>02/09/2010</u> First Reading: <u>02/22/2010</u> Second Reading: <u>03/08/2010</u> Third Reading:
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### Subject

Request of the Community Development Department to rezone Lots 5 through 10, Block 14 and all of Block 15, Beer's Addition, Blocks 40 and 41, Beer's Subdivision and Block 3, McMahon, Cooper and Jefferis Addition from I-1/Light Industrial to A-2/Parks Estates and Agricultural. These properties are located between 2<sup>nd</sup> Avenue and 5<sup>th</sup> Avenue, from South 12<sup>th</sup> Street to South 14<sup>th</sup> Street/Indian Creek as shown on the attached map.

### Background

The above mentioned property is located within the Mid-City Corridor Project. This project is a program, which, over the next several years, will allow the Community Development Department to assemble and demolish blighted properties in the City's railroad corridor located between South 9<sup>th</sup> and South 14<sup>th</sup> Street/Indian Creek from Avenue G to 5<sup>th</sup> Avenue. This area will eventually be developed through the extension of the City's trail system and the creation of open space. The subject property is currently zoned I-1/Light Industrial and needs to be down zoned to A-2/Parks, Estates and Agricultural so that open space can be maintained. Several areas within the corridor have already been rezoned to A-2. The majority of the subject property is either City owned or railroad right-of-way/property. The existing residential properties along the south side of 3<sup>rd</sup> Avenue are nonconforming uses under the current I/1 zoning. Single family structures are permitted in an A-2 district but the existing lots will become nonconforming.

No adverse comments have been received from any City department or utility.

No comments have been received from any property owner within the rezoning area nor from anyone within 200 feet.

### Discussion

All of the parcels have been zoned for industrial use since 1928. Rezoning to A-2 will assist in maintaining these parcels as open space until a specific development plan is in place and incorporated into the comprehensive plan. One objective of the *Mid-City Corridor Urban Renewal Plan* is for the City to take the initiative to bring zoning and other regulations and plans for public facilities into conformance with the plan. The ultimate goal for Mid-City Corridor is creation of open space to buffer adjacent residential areas.

### Recommendation

The Community Development Department recommends rezoning Lots 5 through 10, Block 14 and all of Block 15, Beer's Addition, Blocks 40 and 41, Beer's Subdivision and Block 3, McMahon, Cooper and Jefferis Addition from I-1/Light Industrial to A-2/Parks, Estates and Agricultural.

### Public Hearing

Gayle Malmquist appeared before the Planning Commission in favor of the request. No one appeared in opposition.

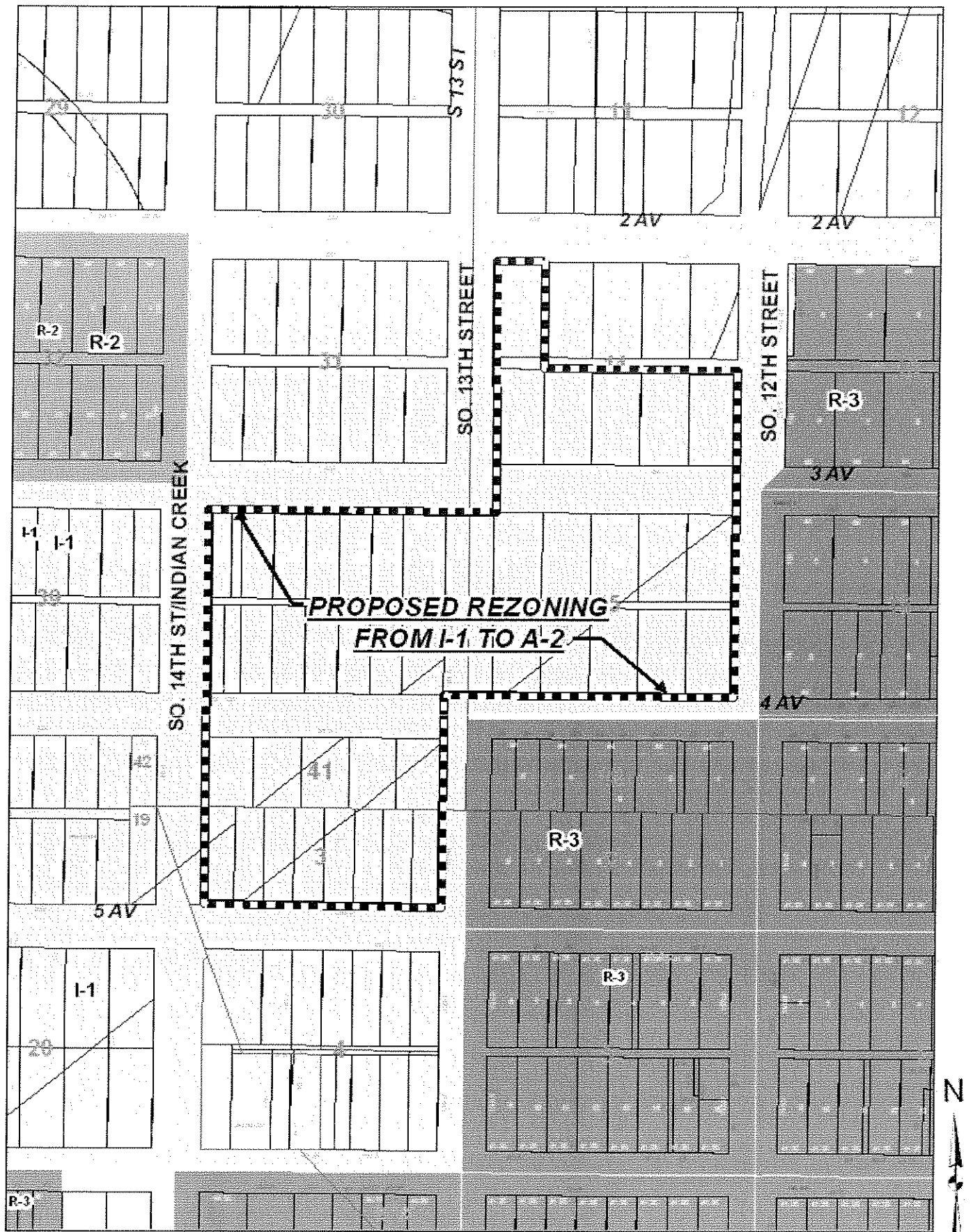
### Planning Commission Recommendation

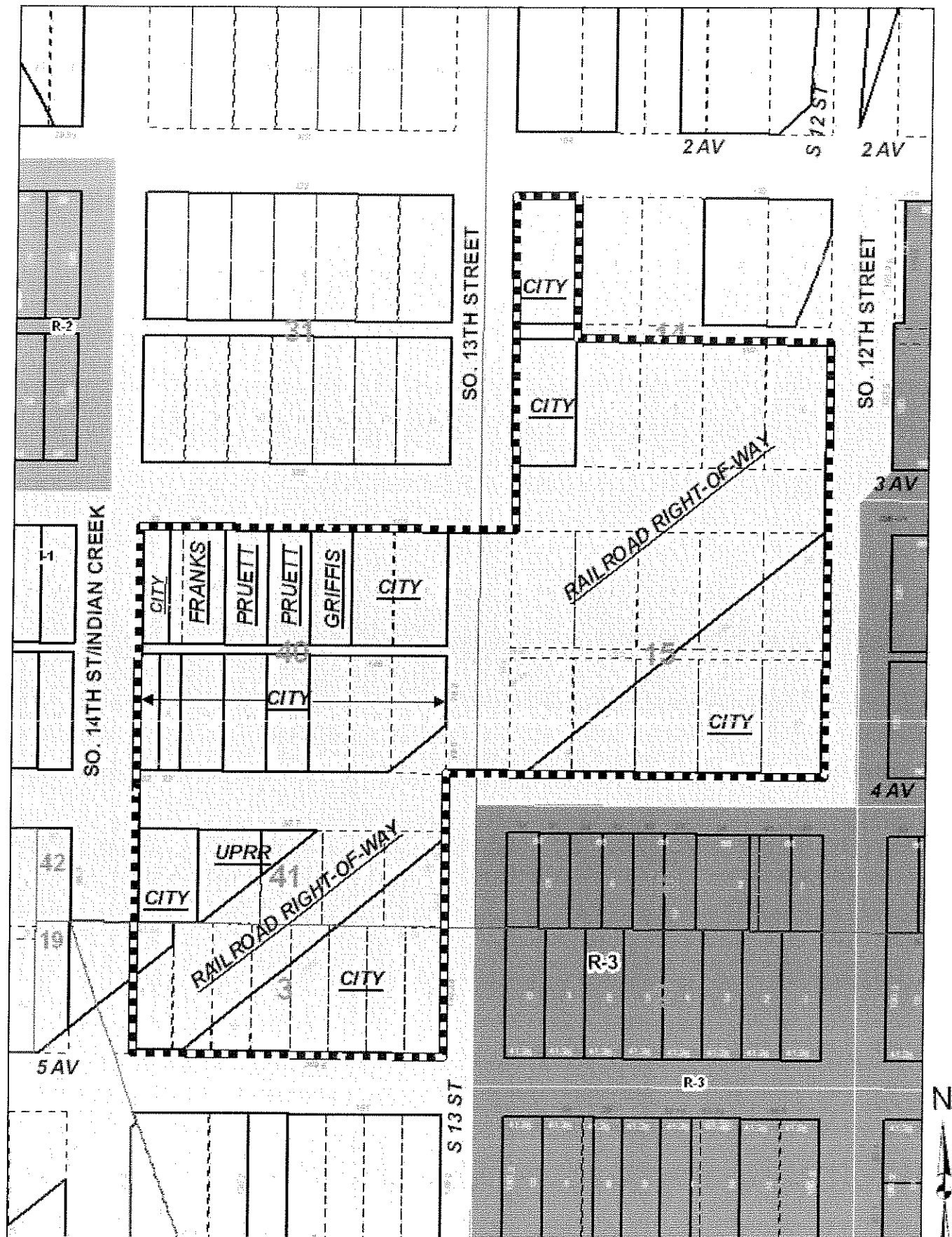
The Planning Commission recommends rezoning Lots 5 through 10, Block 14 and all of Block 15, Beer's Addition, Blocks 40 and 41, Beer's Subdivision and Block 3, McMahon, Cooper and Jefferis Addition from I-1/Light Industrial to A-2/Parks, Estates and Agricultural.

VOTE: AYE 9    NAY 0    ABSTAIN 0    ABSENT 2    Motion: Carried

**Attachments:** Maps showing proposed rezoning area and existing land uses.

**Prepared By:** Rebecca Sall, Planning Technician, Community Development Department.





Prepared by: City of Council Bluffs Legal Department, 209 Pearl Street, Council Bluffs, IA 51503 (712) 328-4620  
Return to: City Clerk, 209 Pearl Street, Council Bluffs, IA

ORDINANCE NO. 6052

AN ORDINANCE TO AMEND THE ZONING MAP OF THE CITY OF COUNCIL BLUFFS, IOWA, AS ADOPTED BY REFERENCE IN SECTION 15.02.040 OF THE 2005 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY CHANGING THE DISTRICT DESIGNATION OF CERTAIN GROUNDS, PREMISES AND PROPERTY GENERALLY LOCATED BETWEEN 2<sup>ND</sup> AVENUE AND 5<sup>TH</sup> AVENUE, FROM SOUTH 12<sup>TH</sup> STREET TO SOUTH 14<sup>TH</sup> STREET/INDIAN CREEK, FROM I-1/LIGHT INDUSTRIAL TO A-2/PARKS, ESTATES AND AGRICULTURAL, AS SET FORTH AND DEFINED IN CHAPTERS 15.20 AND 15.05 OF THE 2005 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA.

BE IT ORDAINED  
BY THE CITY COUNCIL  
OF THE  
CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. That the Zoning Map of the City of Council Bluffs, Iowa, as adopted by reference in Section 15.02.040 of the 2005 Municipal Code of the City of Council Bluffs, Iowa, be and the same is hereby amended by changing the district designation of certain grounds, property and premises generally located between 2<sup>nd</sup> Avenue and 5<sup>th</sup> Avenue, from South 12<sup>th</sup> Street to South 14<sup>th</sup> Street/Indian Creek, legally described as follows:

Lots 5 through 10, Block 14 and all of Block 15, Beer's Addition, Blocks 40 and 41, Beer's Subdivision and Block 3, McMahon, Cooper and Jefferis Addition, in Council Bluffs, Pottawattamie County, Iowa, from its present designation as I-1/Light Industrial to A-2/Parks, Estates and Agricultural, as set forth and defined in Chapters 15.20 and 15.05 of the 2005 Municipal Code of Council Bluffs, Iowa.

SECTION 2. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. Effective Date. This ordinance shall be in full force and effect from and after its final passage, approval and publication, as by law provided.

PASSED  
AND \_\_\_\_\_, 2010  
APPROVED

Thomas P. Hanafan Mayor  
Attest: \_\_\_\_\_  
Marcia L. Worden City Clerk

FIRST CONSIDERATION: \_\_\_\_\_  
SECOND CONSIDERATION: \_\_\_\_\_  
PUBLIC HEARING: \_\_\_\_\_  
THIRD CONSIDERATION: \_\_\_\_\_

## Council Communication

Department and Applicant: Community Development Case No. ZT-10-001	Ordinance No. <u>6053</u>	Planning Commission: <u>2-09-2010</u> First Reading <u>2-22-2010</u> Second Reading <u>3-8-2010</u> Third Reading _____
<b>Subject/Title</b>		
<p>Amend Chapter 15.31 – Communication Towers - Municipal Code (Zoning Ordinance) as follows:</p> <ol style="list-style-type: none"><li>1. Amend §15.31.020 ‘Applicability’. New item #7 to certify non-interference with County emergency communication transmissions. Change reference to conditional use permit from Chapter 15.27 to Chapter 15.02.</li><li>2. Amend §15.31.010 ‘Statement of Intent’. Change reference to conditional use procedures from Chapter 15.27 to Chapter 15.02.</li><li>3. Amend §15.31.050 (01) ‘Standards and conditions for approval’. Change reference authorizing the Zoning Board of Adjustment to make final decisions on conditional uses and the process from Chapter 15.27 to Chapter 15.02.</li></ol> <p>See Attachment ‘A’. New text is <u>underlined</u>. Text to be removed is <del>struck through</del>.</p>		
<b>Background/Discussion</b>		
<p>Pottawattamie County continues to upgrade its emergency communication system. This system relies on line of sight to transmit between/among towers. The Pottawattamie County Sheriff’s Office wishes to review the location of any new communication tower to assure clear transmission of its emergency communications. The proposed amendment requires an applicant to have the County Sheriff’s Office review and verify that erection of a tower at that height and location will not cause interference with their transmissions. All costs for certifying non-interference shall be at applicant’s expense. This documentation must accompany applications for a conditional use.</p> <p>The authority and process for actions by the Zoning Board of Adjustment, including approval of Conditional Uses were moved from Chapter 15.27 to Chapter 15.02 in October of 2008. The other three changes are to make those references consistent with the Zoning Ordinance as amended last year.</p> <p>For your consideration, Attachment ‘A’ shows the proposed amendments to Chapter 15.31 – Communication Towers in the Municipal Code (Zoning Ordinance) as discussed above.</p>		
<b>Recommendation</b>		
<p>The Community Development Department recommends amending Chapter 15.31 Communication Towers of the Municipal Code (Zoning Ordinance) as shown in Attachment ‘A’.</p>		
<b>Public Hearing</b>		
<p>Gayle Malmquist appeared before the Planning Commission in favor of the request. No one appeared in opposition.</p>		
<b>Planning Commission Recommendation</b>		
<p>The Planning Commission recommends amending Chapter 15.31 Communication Towers of the Municipal Code (Zoning Ordinance) to add a requirement to assure non-interference with emergency communication transmissions and to change an internal reference as shown on Attachment ‘A’.</p>		
<p>VOTE: AYE 9    NAY 0    ABSTAIN 0    ABSENT 2    Motion: Carried</p>		
<p>Attachment ‘A’</p>		
<p>Prepared by: Gayle M. Malmquist, Development Services Coordinator</p>		



## Chapter 15.31

### COMMUNICATION TOWERS Standards and Conditions for Approval

#### Sections:

- 15.31.010 Statement of intent
- 15.31.020 Applicability
- 15.31.030 Accessory uses
- 15.31.040 Site plan review procedure
- 15.31.050 Standards and conditions for approval
- 15.31.060 Additional regulations

**15.31.010 Statement of intent.** The purpose of this chapter is to provide for the appropriate location of communication towers and related accessory facilities to serve the needs of the community. The conditional use procedure set forth in Chapter 15.2702 and this chapter provides for the review and discretionary approval of communication tower sites considering conditions specific to the location while offering uniform and comprehensive standards for the development of functionally equivalent services. These regulations are designed to assure the managed development of the community's communication infrastructure through a timely and responsible review process.

**15.31.020 Applicability.** Communication towers exceeding the maximum height allowed in the underlying zoning district to a maximum height of 200 feet are permitted in all zoning districts, subject to approval of a conditional use permit as set forth in Chapter 15.2702 and the additional minimum standards in this Chapter.

01. The following types of communication towers are subject to the standards and procedures of this Chapter.
  - a. UHF, VHF and cable television
  - b. AM, FM and two-way radio
  - c. Fixed point microwave
  - d. Wireless communications, including but not limited to paging, cellular, enhanced specialized mobile radio (ESMR), and personal communications systems (PCS).
02. An antenna and supporting structure for the following are exempt from the development standards of this Chapter and are allowed in any zoning district, if accessory to a permitted use and in compliance with other applicable regulations of that zoning district.
  - a. Amateur radios licensed by the FCC
  - b. Citizens band radios
  - c. Direct broadcast satellite discs
  - d. Conventional home television antennas, including UHF and VHF antennas
03. Towers for police, fire and emergency communications or other municipal systems are exempt from the development standards of this Chapter.
04. Towers attached to utility poles located in public right-of-way are exempt from the development standards of this Chapter. However, placement of such towers shall be

subject to review and approval by the Public Works Department and the appropriate utility.

05. Communication facilities to be co-located onto an existing legally established tower with no increase in height are exempt from the review procedures of this Chapter. However, documentation of the capacity of the structure to support weight or wind load from the additional equipment shall be provided to the Building Division of the Public Works Department prior to issuance of a building permit.
06. Building-attached facilities, either roof mounted antennas or antennas attached to the side of a building are exempt from the standards and conditions of this chapter. These structures shall be subject to review for compliance with all applicable federal, state and local regulations by the Building Division of the Public Works Department, prior to issuance of any local permits. The community development department shall have the authority to approve placement of communication facilities proposed to be mounted on other structures such as water tanks, steeples or other creative locations, if it is determined that the proposed location is consistent with the facilities exempted from the procedures of this Chapter.
07. No tower shall be constructed in a manner which will interfere with emergency communication transmissions of the County. The applicant shall request documentation from the County Sheriff to verify that said tower will not create such interference. Said documentation shall be submitted with the application. Any cost incurred in the process of certifying that the tower, transmitter, receiver or any other communications equipment will not interfere with emergency communication transmissions shall be at the applicant's expense.

#### **15.31.030 Accessory uses**

01. Accessory structures used in direct support of a tower, including equipment cabinets and fencing shall be allowed, but not broadcast studios, vehicle storage or other outdoor storage unless otherwise permitted in the zoning district.

#### **15.31.040 Site plan review procedure**

01. Application. The property owner or their authorized representative may submit an application for a conditional use permit. The application shall be filed with the community development department, along with the required filing fee. The following information shall be considered the minimum. The community development director shall determine the adequacy and completeness of the application prior to scheduling the case before the Zoning Board of Adjustment.
  - a. Legal description and location of the property with a scaled drawing with north arrow and date, showing the relationship of the parcel to the surrounding area.
  - b. A site plan showing all existing and proposed structures located within the property, total acreage of the parcel, dimensions and distances of all structures within the property and 200' beyond the property line.
  - c. Engineering information and drawings pertaining to tower design, building materials, accessory structures and attached equipment, capacity and the number and type of antennas.
  - d. A landscape plan including screening, fencing, lighting and security measures. Notice or proof of application to the Federal Aviation Administration, Federal

Communications commission and/or any other applicable state or federal regulator allowing a tower at the proposed location. Final notice shall be required prior to issuance of the building permit, if a conditional use permit is granted.

**15.31.050 Standards and conditions for approval.** Conditional use permits for the purpose of installing communication towers shall be evaluated based on the following information.

01. ~~The considerations listed in Chapter 15.27.020(02) Powers of the Board of Adjustment for conditional uses~~ Compliance with Chapter 15.02 Administration and Enforcement authorizing the Zoning Board of Adjustment to make final decisions on applications for conditional uses and the process as described in that Chapter.
02. The type and purpose of the tower
03. The height of the proposed tower as measured from the natural undisturbed ground surface below the center of the base of the tower to the tip of the highest antenna or piece of equipment attached.
04. Minimum setbacks from all adjoining property equal to:
  - a. One hundred percent of the tower height from the base of the tower to any adjoining residential dwelling, whether located upon residentially zoned property or not.
  - b. Twenty (20) feet from the base of the tower to any adjoining lot which is not zoned for residential use.
  - c. The Zoning Board of Adjustment may reduce the required setbacks on a finding that such reduction will not adversely effect adjacent properties and is consistent with the purpose and intent of this Chapter.
05. Operational characteristics of the facility including maintenance routines, employee access and security requirements.
06. Landscaping and other buffers proposed to screen the base of the tower from residential or commercial uses, streets, parks or other public property.
07. Other proposed measures to minimize the adverse visual effects on adjacent land including lighting, non-interference with radio and television reception or other mitigating factors.
08. Proximity to other towers and documentation of incompatibility with those towers, attempts to co-locate and/or accommodate other providers on the proposed tower.
09. Towers requiring painting or lighting to meet Federal Aviation Administration requirements are permitted in any zoning district.

**15.31.060 Additional regulations**

01. A conditional use permit shall become void two (2) years after the date of approval unless the applicant has obtained a building permit and is in the process of or has completed construction of the communication tower as approved.
02. A conditional use permit approved subject to these procedures shall run with the land and continue to be valid regardless of change of ownership of either the land or the approved structure, however the owner is required to notify the City of any sub-leases or shared use of the tower.
03. After proper notice of a public hearing on the matter as required elsewhere in this title, the Zoning Board of Adjustment may revoke a conditional use if it finds that the use is in violation of the terms of approval.
04. All obsolete or unused towers and accessory facilities shall be removed at owner's expense within twelve (12) months of cessation of operation at the site.

ORDINANCE NO. 6053

AN ORDINANCE to amend Chapter 15.31 "Communication Towers" of the 2005 Municipal Code of Council Bluffs, Iowa, by amending Sections 15.31.010 "Statement of Intent", Section 15.31.020 "Applicability", and Section 15.31.050 "Standards and conditions for approval".

BE IT ORDAINED  
BY THE CITY COUNCIL  
OF THE  
CITY OF COUNCIL BLUFFS, IOWA:

**SECTION 1.** That Chapter 15.31 "Communication Towers" of the 2005 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by repealing and reenacting Section 15.31.010 "Statement of Intent", to read as follows:

**"15.31.010 Statement of Intent.** The purpose of this chapter is to provide for the appropriate location of communication towers and related accessory facilities to serve the needs of the community. The conditional use procedure set forth in Chapter 15.27 02 and this chapter provides for the review and discretionary approval of communication tower sites considering conditions specific to the location while offering uniform and comprehensive standards for the development of functionally equivalent services. These regulations are designed to assure the managed development of the community's communication infrastructure through a timely and responsible review process."

**SECTION 2.** That Chapter 15.31 "Communication Towers" of the 2005 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by repealing and reenacting Section 15.31.020 "Applicability", to read as follows:

**"15.31.020 Applicability.** Communication towers exceeding the maximum height allowed in the underlying zoning district to a maximum height of 200 feet are permitted in all zoning districts, subject to approval of a conditional use permit as set forth in Chapter 15.27 02 and the additional minimum standards in this Chapter.

01. The following types of communication towers are subject to the standards and procedures of this Chapter.

- a. UHF, VHF and cable television.
- b. AM, FM, and two-way radio.
- c. Fixed point microwave.
- d. Wireless communications, including but not limited to paging, cellular, enhanced specialized mobile radio (ESMR), and personal communications systems (PCS).

02. An antenna and supporting structure for the following are exempt from the development standards of this Chapter and are allowed in any zoning district, if accessory to a permitted use and in compliance with other applicable regulations of that zoning district.

- a. Amateur radios licensed by the FCC.
- b. Citizens band radios.
- c. Direct broadcast satellite discs.
- d. Conventional home television antennas, including UHF and VHF antennas.

03. Towers for police, fire and emergency communications or other municipal systems are exempt from the development standards of this Chapter.

04. Towers attached to utility poles located in public right-of-way are exempt from the development standards of this Chapter. However, placement of such towers shall be subject to review and approval by the Public Works Department and the appropriate utility.

05. Communications facilities to be co-located onto an existing legally established tower with no increase in height are exempt from the review procedures of this Chapter. However, documentation of the capacity of the structure to support weight or wind load from the additional equipment shall be provided to the Building Division of the Public Works Department prior to issuance of a building permit.

06. Building-attached facilities, either roof mounted antennas or antennas attached to the side of a building are exempt from the standards and conditions of this chapter. These structures shall be subject to review for compliance with all applicable federal, state and local regulations by the Building Division of the Public Works Department, prior to issuance of any local permits. The Community Development Department shall have the authority to approve placement of communication facilities proposed to be mounted on other structures such as water tanks, steeples or other creative locations, if it is determined that the proposed location is consistent with the facilities exempted from the procedures of this Chapter.

07. No tower shall be constructed in a manner which will interfere with emergency communication transmissions of the County. The applicant shall request documentation from the County Sheriff to verify that said tower will not create such interference. Said documentation shall be submitted with the application. Any cost incurred in the process of certifying that the tower, transmitter, receiver or any other communications equipment will not interfere with emergency communication transmissions shall be at the applicant's expense."

**SECTION 3.** That Chapter 15.31 "Communication Towers" of the 2005 Municipal

Code of Council Bluffs, Iowa, be and the same is hereby amended by repealing and

reenacting Section 15.31.050 "Standards and conditions for approval", to read as follows:

**"15.31.050 Standards and conditions for approval.** Conditional use permits for the purpose of installing communication towers shall be evaluated based on the following information.

01. ~~The considerations listed in Chapter 15.27.020(2) Powers of the Board of Adjustment for conditional uses~~ Compliance with Chapter 15.02 “Administration and Enforcement” authorizing the Zoning Board of Adjustment to make final decisions on applications for conditional uses and the process as described in that Chapter.

02. The type and purpose of the tower.

03. The height of the proposed tower as measured from the natural undisturbed ground surface below the center of the base of the tower to the tip of the highest antenna or piece of equipment attached.

04. Minimum setbacks from all adjoining property equal to:

a. One hundred percent of the tower height from the base of the tower to any adjoining residential dwelling, whether located upon residentially zoned property or not.

b. Twenty (20) feet from the base of the tower to any adjoining lot which is not zoned for residential use.

c. The Zoning Board of Adjustment may reduce the required setbacks on a finding that such reduction will not adversely affect adjacent properties and is consistent with the purpose and intent of this Chapter.

05. Operational characteristics of the facility including maintenance routines, employee access and security requirements.

06. Landscaping and other buffers proposed to screen the base of the tower from residential or commercial uses, streets, parks or other public property.

07. Other proposed measures to minimize the adverse visual effects on adjacent land including lighting, non-interference with radio and television reception or other mitigating factors.

08. Proximity to other towers and documentation of incompatibility with those towers, attempts to co-located and/or accommodate other providers on the proposed tower.

09. Towers requiring painting or lighting to meet Federal Aviation Administration requirements are permitted in any zoning district.”

**SECTION 4. REPEALER.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**SECTION 5. SEVERABILITY CLAUSE.** If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

**SECTION 6. EFFECTIVE DATE.** This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

PASSED  
AND \_\_\_\_\_, 2010  
APPROVED

\_\_\_\_\_  
THOMAS P. HANAFAN Mayor

Attest:

\_\_\_\_\_  
MARCIA L. WORDEN City Clerk

First Consideration: February 22, 2010  
Second Consideration: March 8, 2010  
Public Hearing: \_\_\_\_\_  
Third Consideration: \_\_\_\_\_

Planning Case ZT-10-001

## Council Communication

Department: Community Development Case #ZC-10-002 Applicant: Community Development Department	Ordinance No. <u>6054</u>	City Council: 02/22/2010 Planning Commission: 02/09/2010 First Reading: 02/22/2010 Second Reading: Third Reading:
<p style="text-align: center;"><b>Subject</b></p> <p>Request of the Community Development Department to rezone Block 4, McMahon, Cooper and Jefferis Addition and Auditor's Subdivision of Lots 8 and 9, Block 4, McMahon, Cooper and Jefferis Addition and Block 20 ½, Everett's Addition from I-1/Light Industrial to R-3/Low Density Multi-Family Residential. This block is located between 5<sup>th</sup> and 6<sup>th</sup> Avenues, from South 13<sup>th</sup> Street to South 14<sup>th</sup> Street/Indian Creek as shown on the attached map.</p>		
<p style="text-align: center;"><b>Background</b></p> <p>The City recently acquired four lots located at the southwest corner of 5<sup>th</sup> Avenue and South 13<sup>th</sup> Street. The lots are now vacant but will, in the future, be developed with residential structures. Because the property is currently zoned I-1/Light Industrial, the Community Development Department is requesting rezoning to R-3/Low Density Multi-Family Residential which is an extension of the existing R-3 zoning to the east and south.</p> <p>The entire block is included in the proposed rezoning. Other land uses include four single family structures, two storage lots and a vacant commercial structure. If rezoned, the storage lots and commercial structure will become legal nonconforming uses which can continue subject to the limitations of Section 15.26 Nonconformities of the Council Bluffs Municipal Code (Zoning Ordinance).</p> <p>No adverse comments have been received from any City department or utility.</p> <p>Bruce Kelly, owner of 1324 – 6<sup>th</sup> Avenue, and a representative of Eddie Barnett, owner of 1316 – 6<sup>th</sup> Avenue, contacted staff requesting additional information. Two property owners within 200 feet also requested additional information. No opposition to the proposed rezoning has been received.</p>		
<p style="text-align: center;"><b>Discussion</b></p> <p>In 1928 and 1965, this block was zoned Industrial and Wholesale Manufacturing respectively. It has been in mixed use for many years. The proposed rezoning will allow the City owned lots in the northeast corner of the block to be developed with new residential structures and will downzone four existing residential uses from an industrial classification to a residential classification.</p>		
<p style="text-align: center;"><b>Recommendation</b></p> <p>The Community Development Department recommends rezoning Block 4, McMahon, Cooper and Jefferis Addition and Auditor's Subdivision of Lots 8 and 9, Block 4, McMahon, Cooper and Jefferis Addition and Block 20 ½, Everett's Addition from I-1/Light Industrial to R-3/Low Density Multi-Family Residential.</p>		
<p style="text-align: center;"><b>Public Hearing</b></p> <p>Gayle Malmquist appeared before the Planning Commission in favor of the request. Bruce Kelly, owner of 1324 6<sup>th</sup> Avenue, appeared in opposition.</p>		
<p style="text-align: center;"><b>Planning Commission Recommendation</b></p> <p>The Planning Commission recommends rezoning Block 4, McMahon, Cooper and Jefferis Addition and Auditor's Subdivision of Lots 8 and 9, Block 4, McMahon, Cooper and Jefferis Addition and Block 20 ½, Everett's Addition from I-1/Light Industrial to R-3/Low Density Multi-Family Residential.</p>		
<p>VOTE: AYE 7    NAY 2    ABSTAIN 0    ABSENT 2    Motion: Carried</p>		
<p><b>Attachments:</b> Map showing proposed rezoning area and existing land uses.</p>		
<p><b>Prepared By:</b> Rebecca Sall, Planning Technician, Community Development Department.</p>		







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Prepared by: City of Council Bluffs Legal Department, 209 Pearl Street, Council Bluffs, IA 51503 (712) 328-4620  
Return to: City Clerk, 209 Pearl Street, Council Bluffs, IA

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ORDINANCE NO. 6054

AN ORDINANCE TO AMEND THE ZONING MAP OF THE CITY OF COUNCIL BLUFFS, IOWA, AS ADOPTED BY REFERENCE IN SECTION 15.02.040 OF THE 2005 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY CHANGING THE DISTRICT DESIGNATION OF CERTAIN GROUNDS, PREMISES AND PROPERTY GENERALLY LOCATED BETWEEN 5<sup>TH</sup> AND 6<sup>TH</sup> AVENUES, FROM SOUTH 13<sup>TH</sup> STREET TO SOUTH 14<sup>TH</sup> STREET/INDIAN CREEK, FROM I-1/LIGHT INDUSTRIAL TO R-3/LOW DENSITY MULTI-FAMILY RESIDENTIAL, AS SET FORTH AND DEFINED IN CHAPTERS 15.20 AND 15.10 OF THE 2005 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA.

BE IT ORDAINED  
BY THE CITY COUNCIL  
OF THE  
CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. That the Zoning Map of the City of Council Bluffs, Iowa, as adopted by reference in Section 15.02.040 of the 2005 Municipal Code of the City of Council Bluffs, Iowa, be and the same is hereby amended by changing the district designation of certain grounds, property and premises generally located between 5<sup>th</sup> and 6<sup>th</sup> Avenues, from South 13<sup>th</sup> Street to South 14<sup>th</sup> Street/Indian Creek, legally described as follows:

Block 4, McMahon, Cooper and Jefferis Addition and Auditor' Subdivision of Lots 8 and 9, Block 4, McMahon, Cooper and Jefferis Addition and Block 20½, Everett's Addition, in Council Bluffs, Pottawattamie County, Iowa, from its present designation as I-1/Light Industrial to R-3/Low Density Multi-Family Residential, as set forth and defined in Chapters 15.20 and 15.10 of the 2005 Municipal Code of Council Bluffs, Iowa.

SECTION 2. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. Effective Date. This ordinance shall be in full force and effect from and after its final passage, approval and publication, as by law provided.

PASSED  
AND  
APPROVED

February 22, 2010

\_\_\_\_\_  
THOMAS P. HANAFAN

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
MARCIA L. WORDEN

\_\_\_\_\_  
City Clerk

FIRST CONSIDERATION: February 22, 2010

SECOND CONSIDERATION: March 8, 2010

PUBLIC HEARING: March 8, 2010

THIRD CONSIDERATION: \_\_\_\_\_

Planning Case No. ZC-10-002

## Council Communication

Department and Applicant: Community Development Case #ZT-10-002	Ordinance No. <u>6055</u>	Planning Commission: 2/09/2010 First Reading <u>2/22/2010</u> Second Reading <u>3/8/2010</u> Third Reading _____
<b>Subject/Title</b>		
<p>Amend Chapter 15.05 – A-2/Parks, Estates and Agricultural District of the Municipal Code (Zoning Ordinance) as follows:</p> <ol style="list-style-type: none"><li>1. Amend §15.05.020 ‘Principal Uses’ by adding new item 12 as follows: ‘Secondary airports and private light plane landing strips, when laid out and operated in accordance with all applicable regulations of the Federal Aviation Administration (FAA) and when situated on a site containing not less than thirty (30) acres.’</li><li>2. Amend §15.05.030 ‘Conditional uses’. Change reference to conditional use procedures from Chapter 15.27 to Chapter 15.02.</li></ol> <p>See Attachment ‘A’. New text is <u>underlined</u>. Text to be removed is <del>struck through</del>.</p>		
<b>Background/Discussion</b>		
<p>The annexation as approved on December 22, 2009, included about 600 acres of property owned and operated by the Council Bluffs Airport Authority as a secondary airport. The Council Bluffs Zoning Ordinance does not address ‘airports’ as a use. The proposed amendment adds ‘secondary airports’ as described above as a principal use in the A-2/Parks, Estates and Agricultural District. The proposed amendment uses the same language as the County.</p> <p>A recommendation to rezone to A-2, the entire recently annexed land will be presented after the required notifications have been sent to the effected and abutting property owners. §15.27.030 ‘Annexed Territory’ states that ‘Annexed land shall retain the same zoning classification after annexation that it had prior to annexation. Those regulations shall remain in place until the City completes the legislative action to rezone the property.’</p> <p>The authority and process for actions by the Zoning Board of Adjustment, including approval of Conditional Uses were moved from Chapter 15.27 to Chapter 15.02 in October of 2008. The proposed amendment to §15.05.030 reflects that change.</p> <p>Attachment ‘A’ shows the proposed amendments to Chapter 15.05 – A-2/Parks, Estates and Agricultural District in the Municipal Code (Zoning Ordinance) as discussed above.</p>		
<b>Recommendation</b>		
<p>The Community Development Department recommends amending Chapter 15.05 A-2/Parks, Estates and Agricultural District of the Municipal Code (Zoning Ordinance) as shown in Attachment ‘A’.</p>		
<b>Public Hearing</b>		
<p>Gayle Malmquist appeared before the Planning Commission in favor of the request. No one appeared in opposition.</p>		
<b>Planning Commission Recommendation</b>		
<p>The Planning Commission recommends amending Chapter 15.05 A-2/Parks, Estates and Agricultural District of the Municipal Code (Zoning Ordinance) to add ‘Secondary Airports’ as a principal use and to change an internal reference as shown on Attachment ‘A’.</p>		
<p>VOTE: AYE 9    NAY 0    ABSTAIN 0    ABSENT 2    Motion: Carried</p>		
Attachment ‘A’		
Prepared by: Gayle M. Malmquist, Development Services Coordinator		

Chapter 15.05

A-2/PARKS, ESTATES AND AGRICULTURAL DISTRICT

Sections:

- 15.05.010 Statement of intent
- 15.05.020 Principal uses
- 15.05.030 Conditional uses
- 15.05.040 Accessory uses
- 15.05.050 Site development regulations
- 15.05.060 Additional regulations
- 15.05.070 Signs

**15.05.010 Statement of intent.** This district is intended to preserve lands best suited for agricultural, recreational, and large-parcel residential uses. It is also intended to preserve land suited for eventual development, pending proper timing for economical and practical provisions of streets, utilities, schools and other facilities so that reasonably compact development will occur.

**15.05.020 Principal uses.** The following principal uses shall be permitted outright in an A-2 district:

- 01. Animal production
- 02. Cemetery
- 03. Dwelling, single family detached
- 04. Family home
- 05. Government maintenance facility
- 06. Horticulture and crop production
- 07. Local utility services
- 08. Park and recreation services
- 09. Public campground
- 10. Public safety services
- 11. Religious assembly
- 12. Secondary airports and private light plane landing strips, when laid out and operated in accordance with all applicable regulations of the Federal Aviation Administration (FAA) and when situated on a site containing not less than thirty (30) acres

(Ord. #5523, Sec. 1,10/23/00)

**15.05.030 Conditional uses.** The following conditional uses shall be permitted in an A-2 district in accordance with the requirements set forth in Chapter 15.27 02:

- 01. Agricultural sales and service
- 02. Commercial recreation (outdoor)
- 03. Day care services

- 04. Extraction activity
  - 05. Funeral service in conjunction with a cemetery
  - 06. Outdoor firing range
  - 07. Private campground
  - 08. Sanitary landfill
  - 09. Rubble dump
- (Ord. #5523, Sec. 2,10/23/00)

**15.05.040 Accessory uses.** Accessory uses shall include uses of land or structures customarily incidental and subordinate to one of the principal uses, unless otherwise excluded. In an A-2 District only, an accessory structure may exceed the ground floor coverage of the principal structure.

**15.05.050 Site development regulations.**

Minimum Lot Size

Lot area: 3 acres  
 Lot width: 150 feet  
 Lot depth: 200 feet

<u>Minimum Setbacks</u>	<u>Principal Structure</u>	<u>Accessory Structure</u>
Front yard	50 feet	greater of 50 feet or existing front setback line of principal structure
Street side yard:	20 feet	20 feet
Side yard:	10 feet or 10% of lot width whichever is greater	10 feet or 10% of lot width or whichever is greater
Rear yard:	20 feet	20 feet
Maximum height:	35 feet	25 feet
Lot coverage: <u>- all structures</u>	10% maximum	

**15.05.060 Additional regulations.**

- 01. Reserved

**15.05.070 Signs.** Signage in this district shall comply with Chapter 15.33 "Signs". (Ord. 5285, 8/26/96)

ORDINANCE NO. 6055

AN ORDINANCE to amend Chapter 15.05 "A-2/Parks, Estates and Agricultural District" of the 2005 Municipal Code of Council Bluffs, Iowa, by amending Sections 15.05.020 "Principal uses" and 15.05.030 "Conditional uses".

BE IT ORDAINED  
BY THE CITY COUNCIL  
OF THE  
CITY OF COUNCIL BLUFFS, IOWA:

**SECTION 1.** That Chapter 15.05 "A-2/Parks, Estates and Agricultural District" of the 2005 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by repealing and reenacting Section 15.05.020 "Principal uses", to read as follows:

**"15.05.020 Principal uses.** The following principal uses shall be permitted outright in an A-2 district:

01. Animal production.
02. Cemetery.
03. Dwelling, single family detached.
04. Family home.
05. Government maintenance facility.
06. Horticulture and crop production.
07. Local utility services.
08. Park and recreation services.
09. Public campground.
10. Public safety services.
11. Religious assembly.
12. Secondary airports and private light plane landing strips, when laid out and operated in accordance with all applicable regulations of the Federal Aviation Administration (FAA) and when situated on a site containing not less than thirty (30) acres."

**SECTION 2.** That Chapter 15.05 "A-2/Parks, Estates and Agricultural District" of the 2005 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by repealing and reenacting Section 15.05.030 "Conditional uses", to read as follows:

**"15.05.030 Conditional uses.** The following conditional uses shall be permitted in an A-2 district in accordance with the requirements set forth in Chapter 15.27 02:

01. Agricultural sales and service.
02. Commercial recreation (outdoor).



03. Day care services.
04. Extraction activity.
05. Funeral service in conjunction with a cemetery.
06. Outdoor firing range.
07. Private campground.
08. Sanitary landfill.
09. Rubble dump.”

**SECTION 3. REPEALER.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed. This is Ordinance No. 5523, Sections 1 and 2 (2000).

**SECTION 4. SEVERABILITY CLAUSE.** If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

**SECTION 5. EFFECTIVE DATE.** This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

PASSED  
AND \_\_\_\_\_, 2010  
APPROVED

\_\_\_\_\_  
THOMAS P. HANAFAN Mayor

Attest:

\_\_\_\_\_  
MARCIA L. WORDEN City Clerk

First Consideration: February 22, 2010  
Second Consideration: March 8, 2010  
Public Hearing: \_\_\_\_\_  
Third Consideration: \_\_\_\_\_

Planning Case ZT-10-002

**Council Communication**  
**February 22, 2010 City Council Meeting**

Department: Community Development  Case/Project Nos.: URV-99-002 & URV 02-001	Ordinance Nos.: <u>6056</u>  Resolution Nos.:	First Reading: <u>2/22/2010</u> Second Reading: <u>3/8/2010</u> Public Hearing: <u>3/8/2010</u> Third Reading:
<b>Subject/Title</b>		
1) Repeal of the 23 <sup>rd</sup> Avenue Urban Revitalization Plan, Area and Ordinance 2) Repeal of the Valley View Urban Revitalization Plan, Area and Ordinance		
<b>Background/Discussion</b>		
<p><u>Background</u></p> <p>Chapter 404 of the Iowa Code authorizes a City to designate an area as an urban revitalization area. Improvements to qualified real estate within designated areas may then be eligible to receive a total or partial exemption from property taxes for a specified number of years. The exemptions are intended to stimulate private investment by reducing the tax increase that would normally result from making improvements to real estate property. Urban revitalization tax abatement incentives apply to commercial development, industrial development and multi-family residential development (12 units or more). Both new construction on vacant or unimproved land and the rehabilitation of existing structures are eligible for tax abatement.</p> <p>The City of Council Bluffs currently has four urban revitalization areas. Two of these areas have expired and the projects have been completed. As a result, these two areas should now be repealed.</p> <p><u>Discussion</u></p> <p>23<sup>rd</sup> Avenue – The 23<sup>rd</sup> Avenue Urban Revitalization Area was originally adopted on February 25, 2002 by Resolution 02-61 and Ordinance 5684. As a result of the creation of this urban revitalization area, AGT Enterprises, Inc. constructed the Star Cinema. The project is now complete.</p> <p>Valley View – The Valley View Urban Revitalization Area was originally adopted on November 22, 1999 by Resolution 99-293 and Ordinance 5478. This urban revitalization area was amended on December 16, 2002 by Resolution 02-345 to extend the term of the area. As a result of the creation of this urban revitalization area, The Foundation for Affordable Housing constructed the Valley View Estates Apartments. This project added 258 multi-family units to the City's multi-family housing stock and is now complete.</p>		
<b>Staff Recommendation</b>		
The Community Development Department recommends repealing the 23 <sup>rd</sup> Avenue Urban Revitalization Plan and Area and the Valley View Urban Revitalization Plan and Area including the corresponding ordinances, effective March 15, 2010.		
<b>Attachments</b>		
Resolutions and Ordinances to Repeal		

**ORDINANCE NO. 6056**

**AN ORDINANCE TO REPEAL ORDINANCE NO. 5478 WHICH ESTABLISHED THE VALLEY VIEW URBAN REVITALIZATION AREA WITHIN THE CITY OF COUNCIL BLUFFS.**

**WHEREAS,** on November 22, 1999, Ordinance No. 5478 was passed by the City Council establishing the Valley View Urban Revitalization Area; and

**WHEREAS,** the term of the Valley View Urban Revitalization Area expired on December 31, 2002; and

**WHEREAS,** the project is complete and there is no longer a need for the Valley View Urban Revitalization Plan and Area; and

**WHEREAS,** pursuant to Section 404.7 of the Code of Iowa, and after study and consideration, it is the opinion of this City Council that Ordinance No. 5478, which established the Valley View Urban Revitalization Area, should be repealed, effective March 15, 2010.

**BE IT ORDAINED  
BY THE CITY COUNCIL  
OF THE  
CITY OF COUNCIL BLUFFS, IOWA**

That Ordinance No. 5478 passed and approved on November 22, 1999 is hereby repealed, effective March 15, 2010.

APPROVED  
AND  
ADOPTED \_\_\_\_\_, 2010

\_\_\_\_\_  
Thomas P. Hanafan

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Marcia L. Worden

\_\_\_\_\_  
City Clerk

**Council Communication**  
**February 22, 2010 City Council Meeting**

Department: Community Development  Case/Project Nos.: URV-99-002 & URV 02-001	Ordinance Nos.:  Resolution Nos.: 10-	First Reading: 3-8-10 Second Reading: N/A Third Reading: N/A Public Hearing: 3-8-10
<b>Subject/Title</b>		
1) Repeal of the 23 <sup>rd</sup> Avenue Urban Revitalization Plan, Area and Ordinance 2) Repeal of the Valley View Urban Revitalization Plan, Area and Ordinance		
<b>Background/Discussion</b>		
<u>Background</u> Chapter 404 of the Iowa Code authorizes a City to designate an area as an urban revitalization area. Improvements to qualified real estate within designated areas may then be eligible to receive a total or partial exemption from property taxes for a specified number of years. The exemptions are intended to stimulate private investment by reducing the tax increase that would normally result from making improvements to real estate property. Urban revitalization tax abatement incentives apply to commercial development, industrial development and multi-family residential development (12 units or more). Both new construction on vacant or unimproved land and the rehabilitation of existing structures are eligible for tax abatement.  The City of Council Bluffs currently has four urban revitalization areas. Two of these areas have expired and the projects have been completed. As a result, these two areas should now be repealed.		
<u>Discussion</u> 23 <sup>rd</sup> Avenue – The 23 <sup>rd</sup> Avenue Urban Revitalization Area was originally adopted on February 25, 2002 by Resolution 02-61 and Ordinance 5684. As a result of the creation of this urban revitalization area, AGT Enterprises, Inc. constructed the Star Cinema. The project is now complete.  Valley View – The Valley View Urban Revitalization Area was originally adopted on November 22, 1999 by Resolution 99-293 and Ordinance 5478. This urban revitalization area was amended on December 16, 2002 by Resolution 02-345 to extend the term of the area. As a result of the creation of this urban revitalization area, The Foundation for Affordable Housing constructed the Valley View Estates Apartments. This project added 258 multi-family units to the City's multi-family housing stock and is now complete.		
<b>Staff Recommendation</b>		
The Community Development Department recommends repealing the 23 <sup>rd</sup> Avenue Urban Revitalization Plan and Area and the Valley View Urban Revitalization Plan and Area including the corresponding ordinances, effective March 15, 2010.		
<b>Attachments</b>		
Resolutions and Ordinances to Repeal		

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE TO REPEAL ORDINANCE NO. 5684 WHICH ESTABLISHED THE 23<sup>RD</sup> AVENUE URBAN REVITALIZATION AREA WITHIN THE CITY OF COUNCIL BLUFFS.**

**WHEREAS,** on March 11, 2002, Ordinance No. 5684 was passed by the City Council establishing the 23<sup>rd</sup> Avenue Urban Revitalization Area; and

**WHEREAS,** the term of the 23<sup>rd</sup> Avenue Urban Revitalization Area expired on December 31, 2004; and

**WHEREAS,** the project is complete and there is no longer a need for the 23<sup>rd</sup> Avenue Urban Revitalization Plan and Area; and

**WHEREAS,** pursuant to Section 404.7 of the Code of Iowa, and after study and consideration, it is the opinion of this City Council that Ordinance No. 5684, which established the 23<sup>rd</sup> Avenue Urban Revitalization Area, should be repealed, effective March 15, 2010.

**BE IT ORDAINED  
BY THE CITY COUNCIL  
OF THE  
CITY OF COUNCIL BLUFFS, IOWA**

That Ordinance No. 5684 passed and approved on March 11, 2002 is hereby repealed, effective March 15, 2010.

APPROVED  
AND  
ADOPTED \_\_\_\_\_, 2010

\_\_\_\_\_  
Thomas P. Hanafan

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Marcia L. Worden

\_\_\_\_\_  
City Clerk

### Council Communication

Department: Public Works Division: Building Case/Project No.	Ordinance No. <u>6058</u>	First Reading <u>March 8, 2010</u> Public Hearing Second Reading Third Reading
<b>Subject/Title</b>		
AN ORDINANCE to amend Title 13 entitled "Buildings and Construction" of the 2005 Municipal Code of Council Bluffs, Iowa, by enacting a new Chapter 13.20 to be codified and entitled "Energy Conservation Code".		
<b>Background/Discussion</b>		
This energy code is mandated by the State of Iowa. This new Municipal Code chapter is being proposed to coincide with the State of Iowa regulatory laws concerning energy conservation. The Energy Code administrative Sections 102 through 109 are relocated to Chapter 13.01 of the Municipal Code.		
<b>Significant Amendments</b>		
A portion of the administrative provisions for this code are proposed to be moved to Chapter 13.01 for conformity and simplicity.		
<b>Recommendation</b>		
The Public Works Director and the Building Official recommend that the City Council favorably consider this proposed ordinance and pass it into law.		

\_\_\_\_\_  
Public Works Director's Signature

\_\_\_\_\_  
Mayor's Signature

\_\_\_\_\_  
Building Official's Signature

**ORDINANCE # 6058**

**AN ORDINANCE** to amend Title 13 entitled “Buildings and Construction” of the 2005 Municipal Code of Council Bluffs, Iowa, by enacting a new Chapter 13.20 to be codified and entitled “Energy Conservation Code”.

**BE IT ORDAINED  
BY THE CITY COUNCIL  
OF THE  
CITY OF COUNCIL BLUFFS, IOWA:**

**SECTION 1. ADOPTION**

That Title 13 entitled “Buildings and Construction” of the 2005 Municipal Code of Council Bluffs, Iowa, is hereby amended by enacting a new Chapter 13.20 to be codified and entitled “Energy Conservation Code”, to read as follows:

**SECTION 13.20.010 ADOPTION.**

That a certain document being marked and designated as the 2009 edition of the International Energy Conservation Code, excluding any appendix chapters, as published by the International Code Council of Falls Church, VA, including the recognized code Referenced Standards contained in Chapter 6 all as modified or amended in the International Energy Conservation Code referenced herein; be and the same are adopted as the Energy Conservation Code of the City of Council Bluffs, Iowa, which is on file and open for inspection by the public in the office of the Building Official, are hereby referred to, adopted, and made a part hereof as if fully set out in this chapter.

The City of Council Bluffs Energy Code shall coincide with the State of Iowa Energy Code as adopted, amended, and mandated by the State of Iowa Public Safety Department as described in the Iowa Administrative Code in Section 661- 303(103A) entitled “State Building Code – Requirements for Energy Conservation in Construction”, except for any administrative provisions.

**SECTION 2. PROVISIONS.**

The above adopted edition of the International Energy Conservation Code shall have these provisions as follows:

**SECTION 13.20.020 ADMINISTRATIVE PROVISIONS.** The administrative provisions of Section 102 through Section 109 in this Energy Conservation Code shall be as provided for in Chapter 13.01 of the Municipal Code.

**SECTION 13.20.030 PROVISIONS.** This energy code shall regulate the design and construction of buildings for the effective use of energy.  
This Energy Conservation Code shall be applicable within the city limits of Council Bluffs, Iowa, which provides for each and all of the regulations, provisions, conditions and terms of the International Energy Conservation Code as published by the International Code Council.  
The Energy Conservation Code scope shall establish thermal and lighting efficiency standards for the design of new buildings and structures or portions thereof and additions to existing buildings which provide facilities or shelter intended primarily for human occupancy or use by regulating their exterior envelopes and selection of their heating, ventilation, and air-conditioning systems, service water heating, electrical distribution and illuminating systems and equipment for the efficient use of energy.

**SECTION 3. REFERENCED STANDARDS.**

The reference to the “International Plumbing Code” in the Standards of Chapter 6 shall be amended to the plumbing code as adopted in Chapter 13.12 of the Municipal Code.

**SECTION 4. REPEALER.**

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**SECTION 5. SEVERABILITY CLAUSE.**

If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

**SECTION 6. EFFECTIVE DATE.**

This ordinance shall be in full force and effect from and after its final passage and publication ( - -10) as by law provided.

PASSED

AND

APPROVED: \_\_\_\_\_, 2010

\_\_\_\_\_  
Thomas P. Hanafan, Mayor

Attest:

\_\_\_\_\_  
Marcia L. Worden, City Clerk

First Consideration: 3/8/2010  
Public Hearing: None required  
Second Consideration: 3/29/2010  
Third Consideration:



**Chapter 303**  
**state building code—requirements for**  
**energy conservation in construction**  
[Prior to 12/21/05, see rules 661—16.800(103A) to 661—16.802(103A)]

**661—303.1 (103A) Scope and applicability of energy conservation requirements.**

**303.1(1) Scope.**

Rules 661—303.1(103A) through 303.3(103A) establish thermal energy efficiency standards for the design of new buildings and structures or portions thereof, additions to existing buildings, and renovation and remodeling of existing buildings, except for residential buildings of one or two dwelling units, which are intended for human occupancy and which are heated or cooled by regulating their exterior envelopes and selection of their heating, ventilation, and air-conditioning systems, service water heating systems and equipment for the efficient use of energy, and lighting efficiency standards for buildings intended for human occupancy which are lighted.

**303.1(2) Applicability.**

Rules 661—303.1(103A) through 661—303.3(103A) apply to design and construction of buildings which are intended for human occupancy throughout the state of Iowa. Any construction of buildings or facilities which are intended for human occupancy and which are heated or cooled is covered, with the exception of renovation and remodeling of residential buildings of one or two dwelling units, which are not covered. Rule 661—303.2(103A) establishes standards for design and construction of residential buildings of three or fewer stories. Rule 661—303.3(103A) establishes standards for design and construction of commercial buildings and residential buildings of four or more stories. The occupancy of any building covered by this chapter shall be determined based upon the occupancy definitions in chapter 3 of the International Building Code, 2006 edition.

**303.1(3) Review by architect or engineer.**

*a. Review required.*

The plans and specifications for all buildings to be constructed which exceed a total volume of 100,000 cubic feet of enclosed space that is heated or cooled shall be reviewed by a registered architect or licensed professional engineer for compliance with applicable energy efficiency standards.

*b. Statement of review.*

A statement that a review has been accomplished and that the design is in compliance with the energy efficiency standards shall be signed and sealed by the responsible registered architect or licensed professional engineer. This statement shall be filed with the commissioner or a local building official on a form approved by the commissioner prior to construction or before obtaining any local permits. The statement shall be filed with the commissioner for any project which is subject to plan review by the building code bureau.

*c. Additional buildings.*

If the plans and specifications relating to energy efficiency for a specific structure have been approved, additional buildings may be constructed from those same plans and specifications without need of further approval if construction begins within five years of the date of approval. Alterations of a structure which has been previously approved shall not require a review because of these changes, provided the basic structure remains unchanged and no additional energy is required for heating, cooling or lighting.

*d. Changes to approved plans.*

Prior to the completion of construction, no changes shall be made to any approved plan or specifications which increase the amount of energy used for heating, cooling, or lighting, unless the changes are approved by the responsible registered architect or licensed professional engineer in writing and notice has been filed with the commissioner or a local building official. The commissioner or a local building official shall be notified of any change which is anticipated to decrease the amount of energy used. Notification pursuant to this paragraph shall be to the commissioner for any project which is subject to plan review by the building code bureau.

**661—303.2 (103A) Residential energy code.**

The International Energy Conservation Code, 2009 edition, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041, is adopted by reference as the residential energy code of the state of Iowa building code, applicable to residential construction limited to three or fewer stories throughout the state of Iowa, with the following amendments:

- Delete section 101.1.
- Delete section 101.2.
- Delete section 103.3.1.
- Delete section 103.3.2.
- Delete section 103.3.3.
- Delete section 103.4.

Delete section 103.5.

Delete sections 104, 107, 108, and 109 and all sections contained within each of these.

Delete chapter 5.

**661—303.3 (103A) Adoption of nonresidential energy code.**

The International Energy Conservation Code, 2009 edition, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041, is hereby adopted by reference as the nonresidential energy code of the state building code, applicable to commercial construction or residential construction of four or more stories within the state of Iowa, with the following amendments:

Delete section 101.1.

Delete section 101.2.

Delete section 103.3.1.

Delete section 103.3.2.

Delete section 103.3.3.

Delete section 103.4.

Delete section 103.5.

Delete sections 104, 107, 108, and 109 and all sections contained within each of these.

Delete chapter 4.

**661—303.4 (470) Life cycle cost analysis.**

**303.4(1) *Submission required.***

Any public agency as defined by Iowa Code section 470.1 shall prepare a life cycle cost analysis for any new construction having 20,000 square feet of usable floor space which is heated or cooled by a mechanical or electrical system or for any renovation where additions or alterations exceed 50 percent of the value of the facility and affect an energy system. The life cycle cost analysis shall be prepared in compliance with Iowa Code chapter 470 and shall be submitted to the state building code commissioner before construction commences.

**303.4(2) *Notification by state agency.***

Any public agency which is a state agency as defined in Iowa Code section 7D.34 shall, within 60 days of final selection of a design architect or engineer, notify the commissioner and the office of energy independence of the methodology to be used to perform the life cycle cost analysis. Notice shall be given on the forms provided by the office of energy independence for this purpose. A life cycle cost analysis prepared by a state agency shall be submitted in sufficient time ahead of the release of plans for bids to allow for revisions or additions which may be made to the plans. Public funds shall not be used for the construction or renovation of a facility unless the design for the work is prepared in accordance with Iowa Code chapter 470 and the actual construction or renovation is consistent with the design.

**303.4(3) *Exemptions from implementation.***

Any public agency responsible for construction or renovation of a public facility shall implement the recommendation of the life cycle cost analysis except as provided in this subrule.

- a. A public agency responsible for construction or renovation of a public facility may apply to the commissioner for exemption from any recommendation of the life cycle cost analysis.
- b. The public agency shall implement all recommendations of the life cycle cost analysis except those which have been approved for exemption by the commissioner and the director of the office of energy independence.

*Exception:* The public agency is not required to implement any recommendation which would result in a violation of any other provision of law. If the public agency determines that compliance with any recommendation of the life cycle cost analysis would result in a violation of law, the public agency shall so notify the commissioner.

- c. The commissioner and the director of the office of energy independence shall evaluate each request for an exemption on a case-by-case basis.
- d. The commissioner and the director of the office of energy independence shall consider the following factors in determining whether or not to grant an exemption:
  - (1) The purpose of the facility or renovation;
  - (2) Preservation of historic architectural features;
  - (3) Site considerations;
  - (4) Health and safety concerns;
  - (5) Compliance with any other provisions of law; and
  - (6) The technical feasibility of implementing the recommendation. "Technically feasible" means that a

recommendation may be implemented without altering major structural features of an existing facility.

**661—303.5 (103A) Energy review fee.**

The fee for filing an energy review shall be \$25. Payment of the fee, by money order, check, or warrant made payable to Treasurer, State of Iowa, shall be included with the submission of documents for an energy review.

These rules are intended to implement Iowa Code chapter 103A.

[Filed 12/2/05, Notice 9/14/05—published 12/21/05, effective 4/1/06]

[Filed emergency 6/9/06—published 7/5/06, effective 7/1/06]

[Filed 10/5/06, Notice 7/5/06—published 10/25/06, effective 1/1/07]

[Filed 10/31/07, Notice 9/12/07—published 11/21/07, effective 1/1/08]

[Filed emergency 6/11/08—published 7/2/08, effective 6/15/08]

661—303.2 and 661—303.3 and 661—303.4